IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.1951 of 1999

Between:

1 N.Thyagaraja Reddy son of N.Rami Reddy,
The Chittoor District Co.Op Central Bank Ltd. (CDCC Bank Ltd)
Chittoor District.
2 V.Changalraya Naidu, son of Pitchaiah
C.D.C.C. Bank Ltd., Puttur Branch, Chittoor Dist
3 V.Subba Naidu, son of Venkata Swamy
CDCC Bank Limited, Chittoor Head Officer
Chittor Dist
4 A.Gangi Reddy, son of Venkata Reddy
CDCC Bank Limited, Puttor Branch
Chittor District.
5 P.Venkatadri, son of Gangulaiah
CDCC Bank Limited, Vayalpadu Branch,
Chittor District.
6 A.Vidya Sagar, son of A.Ragavaiah
CDCC Bank Limited, Head Office,
Chittor District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh,

Rep.by its Secretary, Agriculture and Co.Op.Department,
Secretariat ,Hyderabad
2 General Managar,
Chittor District Co. Op. Central Bank Limited, Chittoor
3 The President,
District Co-operative Central Bank Ltd.,
Chittoor, Chittoor Dist
4 V.N.Srinivasulu son of Nagappachetty

working as Supervisor , Kuppam Chittoor District

5 Sivalingam son of Siddamma Naidu
Dist Cooperative Central Bank , Puttur, Chittor Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or order or direction more particularly in the nature of Mandamus declaring the action of the Respondent No.2 and 3 in rejecting the clam of the petitioners for fixing their seniority in common inter se seniority list by taking into consideration of the past retrenched service in proceedings No. C.C.1410/97/WP.8887/97, dated 12/02/1998 of the 3rd respondent is illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India and consequently direct the Respondent to promote the petitioners to the next higher posts by refixing the seniority list.

Counsel for the Petitioner: Mr.J.M.NAIDU

Counsel for the Respondent No.1: G.P. for Cooperation

Counsel for Respondents 2 & 3 : Mr.P.M.GOPAL RAO

Counsel for Respondents 4 & 5: Mr.Nuthalapati Krishna Murthy

The Court made the following :

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ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of respondents 2 and 3 in rejecting the claim of the petitioners for fixing their seniority in common *inter se* seniority list by taking into account the past service rendered by them as per the directions of this Court in C.C.No.1410 of 1997 in W.P.No.8887 of 1997, dated 12-2-1998 as arbitrary and illegal and for a consequential direction to fix the seniority of the petitioners at appropriate place and further direct the respondents to promote the petitioners as per the said fixation.

The case of the petitioners is that they joined the 2nd respondent- Bank between the years 1964 and 1968. While so, their services were terminated without following the due process of law in the year 1970-71. Aggrieved by the same, they have filed W.P.No.3788 of 1970 and this Court dismissed the same by an Order dated 1-6-1971; against which, Writ Appeal No.146 of 1971 was filed. A Division Bench of this Court by Judgment dated 5-8-1971 dismissed the appeal recording the assurance given by the Bank that they would be given appointment in future vacancies. Thereafter, they were engaged and they are continuing as on today. While so, there was a merger of Primary Agricultural Cooperative Banks with the District Cooperative Central Banks; therefore, a common integrated seniority list was prepared for the purpose of promotion etc. While preparing the said integrated seniority list, their service in between their initial engagement in 1971 and disengagement in 1981 was not taken into consideration. Therefore, they were shown at the bottom in the seniority list.

Respondents 2 and 3 have filed a detailed counter affidavit denying the allegations made by the petitioners and stating that pursuant to the assurance given before a Division Bench of this Court in W.A.No.146 of 1971, the retrenched employees were re-employed during the period from 1-9-1970 to 4-8-1981 as per their seniority, as and when vacancies arose. Further, by Proceedings dated 1-10-1980 the scale of

pay for the petitioners was protected. However, it was made clear in the said Proceedings that the petitioners shall not claim the period of service rendered before their retrenchment and they also executed a letter of undertaking to that effect. Only the benefit of fixing the salary on the basis of past service was provided to them and that does not give any right to the petitioners to claim past service for the purpose of seniority. Therefore, the claim of the petitioners is baseless and without any substance.

The petitioners are seeking to reckon the service rendered by them prior to their re-employment for the purpose of common integrated seniority after merger of the Primary Agricultural Cooperative Banks with the District Cooperative Central Banks. But, the petitioners themselves gave an undertaking after their re-engagement that they would not claim the seniority etc. Therefore, the claim of the petitioners is only a speculative. At this stage, learned counsel for the petitioners submits that the petitioners did not give any undertaking either in the year 1980 or even prior to that and, therefore, the issue relating to undertaking should also be decided in this *lis.* The petitioners did not file any reply to the counter affidavit filed by respondents 2 and 3, stating that they did not give any undertaking to the authorities. The petitioners also did not question the undertaking by way of an amendment in the writ petition. The Writ Petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

02-11-2004

prk

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 Secretary Agriculture and Co.Op.Department
The Govt of AP Secretariat ,Hyderabad
2 General Managar,
Chittor District Co. Op. Central Bak Limited Chittoor
3 The President,
District Co-operative Central Bank Ltd.,
Chittoor, Chittoor Dist
4 . 2CCs to Government Pleader for Cooperation, High Court

Buildings, Hyderabad (OUT).

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